

**UNITED STATES DISTRICT COURT  
DISTRICT OF IDAHO**

IN RE:

General Order No. 272

ADOPTION OF REVISED DISTRICT  
COURT LOCAL RULES FOR CIVIL  
AND CRIMINAL PRACTICE

After giving appropriate public notice and opportunity for comment on the six Revised District Court Local Rules for Civil and Criminal Practice for the District of Idaho, and said comment period having expired; IT IS HEREBY ORDERED that the Revised District Court Local Rules, as specified below, are approved and adopted:

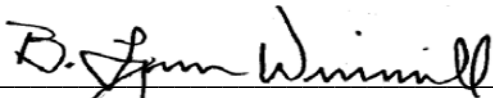
Civil Rules:

- 3.1 Venue
- 67.2 Withdrawal of a Deposit Pursuant to Federal Rule of Civil Procedure 67
- 72.1 Magistrate Judge Rules
- 77.1 Hours of the Court
- 83.6 Appearance, Substitution, and Withdrawal of Attorneys

Criminal Rule:

- 32.1 Disclosure of Investigative Reports by U.S. Probation Office

Dated: August 15, 2013



B. Lynn Winnmill  
Chief United States District Judge



Candy W. Dale  
Chief Magistrate Judge

**CIVIL RULE 3.1**  
**VENUE**

The Divisions of the United States District Court for the District of Idaho consist of the following counties, and are numbered and correspond with the Court's case numbers:

1. Northern Division: Benewah Kootenai  
Bonner Shoshone  
Boundary

2. Central Division: Clearwater Lewis  
Idaho Nez Perce  
Latah

13. Southern Division: Ada Gooding  
Adams Jerome  
Blaine Lincoln  
Boise Owyhee  
Camas Payette  
Canyon Twin Falls  
Elmore Valley  
Gem Washington

2. Northern Division: Benewah Kootenai  
Bonner Shoshone  
Boundary

3. Central Division: Clearwater Lewis  
Idaho Nez Perce  
Latah

4. Eastern Division: Bannock Franklin  
Bear Lake Fremont  
Bingham Jefferson  
Bonneville Lemhi  
Butte Madison  
Caribou Minidoka  
Cassia Oneida  
Clark Power  
Custer Teton

Cases that have venue in one of the above divisions will be assigned by the Clerk upon the filing of the complaint or petition to the appropriate division, unless otherwise ordered by the

**CIVIL RULE 67.2**  
**WITHDRAWAL OF A DEPOSIT PURSUANT TO**  
**FEDERAL RULE OF CIVIL PROCEDURE 67**

**(a) Order of the Court**

Funds may only be withdrawn upon an order of this Court. Such order must specify the amounts to be paid and the names of any person or company to whom the funds are to be paid.

**(b) Application Process**

Any person seeking withdrawal of monies, which were provided to the eCourt by Dist. Idaho Loc. Civ. R. 67.1 and subsequently deposited into an interest-bearing account or instrument as required, shall file a motion seeking withdrawal of the funds. In addition to the motion, a separate document providing the full social security number or tax identification number, and the mailing address of the ultimate recipient of the funds, should be emailed to the appropriate judge's proposed orders email account.

**Advisory Committee Notes:**

Pursuant to 67.2(b), the email sent to the judge's proposed order's account must list the following items in the email subject line, separated by an underscore: (1) the case number, (2) judge's initials, (3) the docket number of the motion filed electronically, which is the subject of the proposed order; and (4) a description. (Example: 1:13-cv-0000\_BLW\_Dkt. 10\_Personal Information for Motion to Withdraw Monies.wpd

**CIVIL RULE 72.1**  
**MAGISTRATE JUDGE RULES**

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Field Code Changed

**(a) Authority of United States Magistrate Judges.**

(1) Authorized Magistrate Judge Duties. All United States magistrate judges of this Court are authorized to perform the duties prescribed by 28 U.S.C. § 636(a), (b), (c), and (g).

(2) Prisoner Cases Under 28 U.S.C. § 2254. Upon referral by a district judge a magistrate judge may perform any or all of the duties imposed upon a district judge by the rules governing proceedings in the United States District Courts under § 2254 of Title 28, United States Code. In so doing, the magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceedings and must submit to a district judge a report containing proposed findings of fact and recommendations for disposition of the petition by the district judge except in cases where the death penalty has been imposed; in which case, the district judge will conduct any evidentiary hearing or other appropriate proceeding. Any order disposing of the motion may only be made by a district judge.

(3) Prisoner Cases Under 42 U.S.C. § 1983. Upon referral by a district judge a magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceedings and must submit to a district judge a report containing proposed findings of fact and recommendations for the disposition of petitions or complaints filed by prisoners challenging the conditions of their confinement.

(4) Other Authorized Duties. A magistrate judge is also authorized to:

(A) Conduct any pretrial matters, such as pretrial conferences, settlement conferences, omnibus hearings, and related proceedings in civil cases upon the referral by a district judge;

(B) Conduct voir dire and select petit juries in civil cases assigned to a district judge, with the consent of the parties; and

(C) Accept petit jury verdicts in civil cases at the request of a district judge.

**(b) Objections to Magistrate Judge's Orders, Reports, and Recommendations.**

(1) Nondispositive Matters - 28 U.S.C. § 636(b)(1)(A). Pursuant to Fed. R. Civ. P. 72(a), a party may serve and file any objections, not to exceed twenty (20) pages, to a magistrate judge's order within fourteen (14) days after being served with a copy of the order, unless the magistrate judge or district judge sets a different time period. A party may serve and file a response, not to exceed twenty (20)~~ten (10)~~ pages, to another party's objections within fourteen (14) days after being served with a copy thereof. The district judge may also

consider sua sponte any order by a magistrate judge found to be clearly erroneous or contrary to law.

(2) Dispositive Matters - 28 U.S.C. § 636(b)(1)(B). When a pretrial matter dispositive of a claim or defense of a party, a post-trial motion for attorney fees, or a prisoner petition is referred to a magistrate judge without consent of the parties pursuant to 28 U.S.C. § 636(b)(1)(B), the magistrate judge will conduct such proceedings as required. The magistrate judge will enter a report and recommendation for disposition of the matter, including proposed findings of fact when appropriate.

Pursuant to Fed. R. Civ. P. 72(a), a party objecting to the recommended disposition of the matter must serve and file specific, written objections, not to exceed twenty pages, to the proposed findings and recommendations within fourteen (14) days after being served with a copy of the magistrate judge's report and recommendation, unless the magistrate or district judge sets a different time period. A party may serve and file a response, not to exceed ten pages, to another party's objections within fourteen (14) days after being served with a copy thereof. The district judge to whom the case is assigned will make a de novo determination of any portion of the magistrate judge's recommended disposition to which specific objection has been made. The district judge may also consider sua sponte any portion of the proposed disposition. The district judge may accept, reject, or modify the recommended disposition, receive further evidence, or recommit the matter to the magistrate judge with directions.

#### **RELATED AUTHORITY**

Fed. R. Civ. P. 72

## **CIVIL RULE 77.1 HOURS OF THE COURT**

(a) **Location and Hours.** The office of the Clerk of Court is located at the Federal Building and United States Courthouse, 550 West Fort Street, Room 400, Boise, Idaho 83724. ~~The Clerk's Office Intake counter will be open from 9 a.m. to 4 p.m. each~~ ~~The regular hours are from 8 a.m. to 5 p.m. each~~ day except Saturday, Sunday, and legal holidays or other days so ordered by the Court. Divisional offices are located at: 220 E. 5th Street, Room 304, Moscow, Idaho 83843; 801 E. Sherman St., Room 119, Pocatello, Idaho 83201; and 6450 N. Mineral Dr., Room 148 Coeur d'Alene, Idaho 83815.

(b) Filings may be made electronically before and after regular office hours or on Saturdays, Sundays, and legal holidays. An electronic document is considered timely filed if received by the Court before midnight, Mountain Time, on the date set as a deadline, unless the judge sets a specific time of day otherwise.

### **RELATED AUTHORITY**

Fed. R. Civ. P. 77(c)

**CIVIL RULE 83.6**  
**APPEARANCE, SUBSTITUTION, AND WITHDRAWAL OF ATTORNEYS**

Field Code Changed

**(a) Appearances.**

(1) An attorney's signature to a pleading filed with the Court shall constitute an appearance by the attorney who signs it. Otherwise, an attorney who wishes to appear for a party or participate in any manner in any action must file a notice of appearance, containing the information required for pleadings as set forth in Rule 5.2. Failure to file a separate notice of appearance may result in an attorney not receiving copies of orders issued by the Court.

(2) Whenever a party has appeared through an attorney, the party may not thereafter appear or act in his or her own behalf in the case or take any step therein unless an order of substitution must first have been made by the Court, after notice to the opposing party and his or her attorney; provided, that the Court may in its discretion hear a party in open court, notwithstanding the fact that the party has appeared or is represented by an attorney.

**(b) Substitutions.**

(1) When an attorney of record who is the sole representative for any person ceases to act for a party, such party must appear in person or appoint another attorney to appear on his behalf by filing a "Notice of Substitution of Attorney." Said notice of substitution must be signed by the party, the attorney ceasing to act, and the newly appointed attorney or by a written designation filed in the cause and served upon the attorney ceasing to act unless said attorney is deceased, in which event the designation of the new attorney must so state. Until such substitution is filed with the Court, the authority of the attorney of record must continue for all proper purposes. The original notice of substitution, containing all signatures, shall be maintained by the filing party pursuant to Dist. Idaho Loc. R. 5.1(e).

(2) When an attorney of record who is the sole representative ceases to act for a party because the attorney is no longer with the same law firm and another attorney from the same law firm is substituted, a "Notice of Substitution of Attorney Within the Firm" and proposed order must be filed with the Clerk of Court. The "Notice of Substitution of Attorney Within the Firm" must be signed by the attorney ceasing to act for the party and the newly appointed attorney from the same firm. Until such substitution is filed with the Court, the authority of the attorney of record will continue for all proper purposes.

**(c) Withdrawal.**

(1) No attorney of record who is the sole representative for a party may withdraw from representing that party without leave of the Court. Before an attorney is to be granted leave to withdraw, the attorney must present to the Court a proposed order permitting the attorney to withdraw and directing the client to appoint another attorney to appear, or to appear in person by filing a notice with the Court stating how the party will be represented. After the

Court has entered such order, the withdrawing attorney must forthwith and with due diligence serve all other parties.

(2) The order shall provide that the withdrawing attorney must continue to represent the client until proof of service of the withdrawal order on the client has been filed with the Court. The client will be allowed twenty-one (21) days after the filing of proof of service by the attorney(s) to advise the Court in writing in what manner the client will be represented.

If the said party fails to appear in the action, either in person or through a newly appointed attorney within such twenty-one (21) day period, such failure will be sufficient grounds for the entry of a default against such party or dismissal of the action of such party with prejudice and without further notice, which shall be stated in the order of the Court.

(3) If the party represented by the withdrawing attorney is a corporation, [or other entity](#), the order must advise the entity that it cannot appear without being represented by an attorney in accordance with [Dist. Idaho Loc. Civ. R. 83.4\(d\)](#).

**Comment [JK1]:** The change is consistent with Rule 83.4(d) which addresses entities other than individuals.

(4) Upon entry of the order and the filing of proof of service on the client, no further proceedings can be had in the action which will affect the right of the party represented by the withdrawing attorney for a period of twenty-one (21) days.

**(d) Notice of Change of Address.** Any attorney or pro se litigant who has been permitted to appear and participate in an action before this Court must advise the Court and other counsel of record, in writing, if that attorney or pro se litigant has a change in name, firm, firm name, office mailing address, or /other mailing address by filing a document entitled "Notice of Change of Address" in each case in which he or she has made an appearance.

The Clerk's Office will assume record keeping responsibility only for address changes made in accordance with this rule.



**CRIMINAL RULE 32.1**  
**DISCLOSURE OF INVESTIGATIVE REPORTS BY**  
**UNITED STATES PROBATION OFFICE**

**(a) Presentence Report, Sentencing Recommendation and Confidentiality.**

(1) Presentence reports ~~are not docketed in criminal cases and~~ are not available for public inspection. They shall not be reproduced or copies distributed to other agencies or other individuals unless the Court or the Chief United States Probation Officer grants permission.

(2) In addition to the presentence report, the probation officer will submit a separate document entitled “Sentencing Recommendation” to the Court. The Sentencing Recommendation is for the benefit of the Court and will not be disclosed to the government, the defendant, or defendant’s counsel or to any other person or party, unless authorized by the sentencing judge, as provided in subsection (3).

(3) The Sentencing Recommendation may be disclosed to the government and defense counsel if authorized by the sentencing judge. Such authorization shall be communicated to the Chief United States Probation Officer in writing or electronically and shall specify whether the authorization applies to all of the individual sentencing judge’s cases or to selected cases only. The sentencing judge may revoke the authorization at any time by so notifying the Chief United States Probation Officer in writing or electronically.

(4) If a sentencing is scheduled before a visiting judge, the probation officer shall contact the staff of the visiting judge to determine whether the visiting judge would like the Sentencing Recommendation disclosed to the government and defense counsel.

(5) Probation reports, violation of supervised release reports, and sentencing recommendations prepared for these reports are governed by these same provisions.

**(b) Presentence Report.**

(1) Sentencing shall occur no less than seventy (70) days following the entry of a guilty plea or nolo contendere plea or verdict of guilty. At the time the Court sets the date of sentencing, the Court will advise counsel and the probation office of the dates the presentence report will be disclosed to counsel, the date counsel is to submit any objections to the probation office, and the date on which the presentence report, and any amendments thereto, will be submitted to the Court and counsel. Should counsel or the probation office be unable to comply with the Court’s specified dates, they shall notify the Court and request a continuance of the sentencing hearing.

(2) The probation officer shall timely notify counsel of the date and place of the initial and subsequent interviews for the presentence report. Counsel shall be provided a

reasonable opportunity to attend any interview of the defendant during the course of the presentence investigation.

(3) Not less than thirty-five (35) days prior to the date of sentencing, the probation officer shall disclose the presentence investigation report to the defendant and to counsel for the defendant and the government. Within fourteen (14) days, counsel shall file with the Clerk of Court ~~and submit a copy to the probation officer~~ any objections they may have as to any material information, sentencing classifications, sentencing guideline ranges, and policy statements contained in or omitted from the report.

(4) After receiving counsel's objections, the probation officer shall conduct any further investigation and make any revisions to the presentence report that may be necessary. The probation officer may request counsel for both parties to meet with the probation officer to discuss unresolved factual and legal issues.

(5) Seven (7) days prior to the date of the sentencing hearing, the probation officer shall submit the presentence report to the sentencing judge. The report shall be accompanied by an addendum setting forth any objections counsel may have made that have not been resolved, together with the officer's comments thereon, as well as the Sentencing Recommendation. The final presentence report and any addendum will also be disclosed at this time to counsel for the defendant and the government. If the sentencing judge has authorized its disclosure, the Sentencing Recommendation shall be disclosed to counsel for the defendant and the government ~~together with the presentence report and addendum. Counsel shall not be permitted to discuss the Sentencing Recommendation with the probation officer.~~

(6) Except with regard to any objection made under subdivision (a) that has not been resolved, the presentence report may be accepted by the Court as accurate. The Court, however, for good cause shown, may allow a new objection to be raised at any time before the imposition of sentence. In resolving disputed issues of fact, the Court may consider any reliable information presented by the probation officer, the defendant, or the government.

(7) The times set forth in this rule may be modified by the Court for good cause shown, except that the thirty-five (35) day period set forth in subsection (b)(3) may only be shortened if the defendant expressly consents.

(8) Nothing in this rule requires the disclosure of any portions of the presentence report that are not disclosable under Federal Rule of Criminal Procedure 32.

(9) The presentence report shall be deemed to have been disclosed when a copy of the report is delivered by electronic filing, hand, fax, or e-mail, one (1) day after the report's availability for inspection is orally communicated to the parties, or three (3) days after a copy of the report or notice of its availability is mailed.

**(c) Confidentiality of Probation Records.**

(1) Investigative reports and supervision records of this Court maintained by the probation office are confidential and not available for public inspection. However, the Chief Probation Officer may disclose these records to federal, state, or local Courts; correctional and law enforcement agencies, contacted treatment providers; or paroling authorities who have a legal, investigative, or custodial interest in that individual.

(2) Any party, other than those defined in subsection (c)(1), seeking access to the confidential records maintained by the probation office, must file a written request to the Chief Probation Officer that conforms to the requirements of *The Guide to Judiciary Policy, Volume 20, Chapter 8* (which is available at [www.idp.uscourts.gov/disclosure.html](http://www.idp.uscourts.gov/disclosure.html)).

**(d) Rule Not to Supersede or Void Provisions of Federal Rule of Criminal Procedure 32(c).** Nothing in this rule shall be construed to supersede or void the provisions of Fed. R. Crim. P. 32(c)(1).

**RELATED AUTHORITY**

Fed. R. Crim. P. 32

The Guide to Judicial Policy, Volume 20, Chapter 8